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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,075	05/17/2001	Werner Kuenzel	H 3244-1 PCT	6630
7590 08/04/2005			EXAMINER	
Glenn E J Murphy Henkel Corporation 2500 Renaissance Boulevard Suite 200 Gulph Mills, PA 19406			FIDEI, DAVID	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TAL

Office Action Summary	Application No.		Applicant(s)	
	09/856,075		KUENZEL ET AL.	
	Examiner		Art Unit	
	David T. Fidei		3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/24/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6 a packaging "for" tablet-shaped objects is recited which is a statement of intended use that does not require the particulars of the object. The one or more packs which are a positive part of the claim then recites said packs each "containing" at least one tablet-shaped object which does require the particulars of the object. Hence claim 6, along with the further dependent claims, are deficient under 35 U.S.C. 112, second paragraph is setting forth the scope of the claim because it is not clear with the tablet shaped articles are a requirement of the claim.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 6-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,629,606. Although the

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conflicting claims are not identical, they are not patentably distinct from each other because the prior patented device recited;

1. A pack of hygroscopic laundry/dishwasher detergent tablets, comprising: a closed outer pack; and a plurality of film bags which are arranged in the outer pack, and in each said plurality of film bags at least one tablet is accommodated, each of said plurality of film bags being closed at either end by a transverse seam and, along its length, by a longitudinal seam, respectively, each of said plurality of film bags are arranged sorted in the outer pack with their longitudinal seams aligned parallel to one another, with the sidewalls of the outer pack parallel to the longitudinal seams of each one of said plurality of film bags, said side walls being reinforced.

Since the present claim 6 recites the packs each closed by a transverse seam and a longitudinal seam where the film packs are arranged so that at least one side wall is parallel to the longitudinal seam of the film packs, present claim 6 is sufficiently broad enough to encompass sidewalls of the outer pack parallel to one another thereby effectively extending the previously patented subject matter. Claim 7 fails to distinguish over the prior patented subject matter in that contact of the transverse seam are not specified in the patented claims. As such the prior patented claims would encompass any type of packing arrangement in this regard.

Present claim 8 is not distinct from prior patented claim 2 as at least one side wall being parallel to the longitudinal seams of the pack is sufficiently broad enough to encompass the reinforced sidewalls in the prior patented claims. Present claim 9 and 10 are identical to prior patented claims 3 and 4, and therefore not patentably distinct.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cornelissens et al (Patent no. 4,397,391) in view of Swiss document 401 812 and Carson et al (Patent no. 2,669,351). Cornelissens et al discloses a packaging with film packs arranged in an equivalent wrapping 1 with their sealing edges 3 folded, col. 4, lines 44, 45 and figure 1. Cornelissens et al col. 4, lines 64 to col.5, line 6 contemplates other packaging means such Swiss document 401 812 where transverse seam 7 is provided with a longitudinal seam 3, noted figure 2. Hence, to provide film packs of the type claimed with transverse and longitudinal sealing edges arranged in a wrapping having two side walls being parallel to the transverse seams and at least one side wall being parallel to the longitudinal seam in the manner claimed is contemplated by Cornelissens et al.

The difference between Cornelissens et al and claim 6 resides in at least one side wall being parallel to the longitudinal seams of the film packs is reinforced. In the embodiments of figures 1-7 Carson et al discloses a packaging where the sidewalls are reinforced around the packs with supports 15, 16, note figure 7. As to claims 6 and 7, it would have been obvious to one of ordinary skill in the art to modify the wrapping of Cornelissens et al by providing at least one side wall being parallel to the longitudinal seams of the film packs is reinforced as taught by Carson et al, in order to provide for further support of the packs.

As to claims 8 and 9, the members of Carson et al are inserts comprising corrugated paper (cardboard is a type of paper, i.e., thick/stiff) and the equivalent wrapper of Cornelissens et al is considered self-supporting as per claim 10 by the disclosure of a box supporting fifteen sachets.

REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION

7. "In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to every ground of objection and rejection in this Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or

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the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

The reply must be reduced to writing (emphasis added)", see 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

Pointing out specific distinctions means clearly indicating in the written response what features/elements or distinctions have been added to the claim/claims, where support is found in the specification for such recitations and how these features are not shown, taught, obvious or inherent in the prior art.

If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner's action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.


The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematurity of final rejection or admission of subsequent amendments do not necessarily reflect present practice. "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)" (emphasis mine), see MPEP 706.07(a).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David T. Fidei
Primary Examiner
Art Unit 3728

dtf
August 1, 2005